

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Naohiro TAKESHITA, *et al.* Confirmation No. **4342**
Appl. No. : **10/720,244**
Filing Date : November 25, 2003
Title : Fuel Cell
TC/A.U. : 1795
Examiner : Keith D. WALKER
Docket No. : 10517/192
Customer No. : 23838

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COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL RESPONSE TO SEPTEMBER 17, 2009 OFFICE ACTION

SIR:

A response to the final Office Action mailed September 17, 2009 was timely filed on December 17, 2009.

Rejection under 35 U.S.C. § 103 Over Sakai and Menon

In the Office Action, Claims 1 and 22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sakai in view of Menon. In the response filed on December 17, 2009, it was shown that Memon was not a proper 103(a) reference.

Enclosed herewith, the Applicant respectfully submits a verified English translation of the Priority Document (Japanese Patent Application No. 2002-345955), which perfects the priority date of November 28, 2002, along with a statement indicating that the translation is

accurate The Applicant respectfully submits that, since for reference publications and patents of patent applications filed under 35 U.S.C. 111 (a), the prior art dates under 35 U.S.C. 102(e) accorded to these references are the earliest effective U.S. filing dates (no benefit of the filing date of the foreign application is given under 35 U.S.C. 102(e) for prior art purposes (*In re Hilmer*, 149 USPQ 480 (CCPA 1966)), the effective filing date of the Menon patent is January 27, 2003, which is subsequent to the Applicant's perfected priority date of November 28, 2002.

Accordingly, since the Applicant has perfected priority by submitting a certified translation of the priority document, as well as a statement from Sanae Nakagawa certifying that the translation is accurate, the Applicant respectfully submits that these rejection that relies upon Menon should be withdrawn.

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: 13 January 2010

By: /Daniel G. Shanley/
Daniel G. Shanley
Reg. No. 54,863

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, D.C. 20005

Tel: (202) 220-4200
Fax: (202) 220-4201